

AMENDED IN ASSEMBLY JUNE 14, 2010

AMENDED IN SENATE APRIL 29, 2010

**SENATE BILL**

**No. 1285**

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**Introduced by Senator Steinberg**

February 19, 2010

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~~An act to amend Section 52.5 of the Civil Code, relating to civil rights.~~ *An act to amend Sections 1240, 35035, 42605, 44955, and 44956 of the Education Code, relating to education employment.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, as amended, Steinberg. ~~Human trafficking.~~ *Education employment.*

*(1) Existing law requires the county superintendent of schools to visit and examine each school in his or her county at reasonable intervals to observe its operation and learn of its problems. Existing law requires that these visits be conducted for specified purposes relating to school safety, pupil instruction, and the accuracy of specified data.*

*This bill would additionally require that these visits determine the extent to which the years of prior experience of teachers employed in the schools reflect the average teacher experience range within the school district during the previous school year.*

*(2) Existing law requires the superintendent of each school district to perform specified duties, including, subject to the approval of the governing board, assigning certificated employees to the positions in which they are to serve.*

*This bill would require the superintendent to assign teachers on a basis that allows each school in the district to reflect the average teacher experience, as defined. Because the bill would increase the duties of*

*the school district superintendent, it would impose a state-mandated local program.*

*(3) Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law authorizes the recipients of certain categorical funds, for the 2008–09 fiscal year to the 2012–13 fiscal year, inclusive, to use these funds for any educational purpose, except as specified.*

*This bill would eliminate this categorical flexibility for a certain program relating to county oversight. The bill would make a conforming change relating to this provision.*

*(4) Existing law requires that, when a reduction in the number of certificated employees employed by a school district is authorized for specified reasons, the layoffs occur in order of employee seniority. Existing law provides certain exceptions to this requirement, including an exception for purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws. Existing law requires, for 39 months from the date of termination, that any employee who in the meantime has not attained 65 years of age have the preferred right to reappointment, in the order of original employment, as specified. Existing law provides certain exceptions to this requirement, including an exception for purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.*

*This bill would provide that this exception relates to both pupils and certificated employees. The bill would require that, when teachers are subject to layoffs pursuant to these provisions, that the proportion of classroom teachers terminated at schools in deciles 1 to 3, inclusive, of the Academic Performance Index, and persistently lowest-achieving schools, as specified, be no greater than the proportion of classroom teachers terminated in the school district as a whole. The bill would authorize school districts to deviate from reappointing teachers in order of seniority for purposes of furthering improvements in pupil achievement at schools in deciles 1 to 3, inclusive, of the Academic Performance Index, and persistently lowest-achieving schools, as specified.*

*(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law permits a victim of human trafficking to bring a civil action for actual damages and provides for an award of punitive damages, as provided, upon proof of the defendant's malice, oppression, fraud, or duress in committing the act of trafficking.~~

~~This bill would instead provide that punitive damages may be awarded upon clear and convincing evidence of the defendant's malice, oppression, fraud, or duress in committing the act of trafficking.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares that every*  
2     *California child has a constitutional right, under the equal*  
3     *protection clause of the California Constitution, to an equal*  
4     *opportunity to attend a school that affords a balance of effective*  
5     *and experienced teachers that is comparable to the balance of*  
6     *effective and experienced teachers at other schools within the same*  
7     *school district. The Legislature finds that paragraph (2) of*  
8     *subdivision (d) of Section 44955 of the Education Code provides*  
9     *that, for purposes of a reduction in force, school districts may*  
10    *deviate from terminating a certificated employee in order of*  
11    *seniority in order to maintain or achieve compliance with the*  
12    *constitutional guarantee of equal protection of the laws.*  
13    *Nonetheless, the Legislature takes notice that some school districts*  
14    *have declined to use this authority and thereby have harmed pupils'*  
15    *rights to education. It is therefore the intent of the Legislature that*  
16    *school districts utilize this authority to prevent disparate impacts*  
17    *of teacher layoffs on pupils' rights to education.*

18    SEC. 2. *Section 1240 of the Education Code is amended to*  
19    *read:*

20    1240. The county superintendent of schools shall do all of the  
21    following:

22    (a) Superintend the schools of his or her county.

1 (b) Maintain responsibility for the fiscal oversight of each school  
2 district in his or her county pursuant to the authority granted by  
3 this code.

4 (c) (1) Visit and examine each school in his or her county at  
5 reasonable intervals to observe its operation and to learn of its  
6 problems. He or she annually may present a report of the state of  
7 the schools in his or her county, and of his or her office, including,  
8 but not limited to, his or her observations while visiting the schools,  
9 to the board of education and the board of supervisors of his or  
10 her county.

11 (2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the  
12 extent that funds are appropriated for purposes of this paragraph,  
13 the county superintendent, or his or her designee, annually shall  
14 submit a report, at a regularly scheduled November board meeting,  
15 to the governing board of each school district under his or her  
16 jurisdiction, the county board of education of his or her county,  
17 and the board of supervisors of his or her county describing the  
18 state of the schools in the county or of his or her office that are  
19 ranked in deciles 1 to 3, inclusive, of the 2003 base Academic  
20 Performance Index (API), as defined in subdivision (b) of Section  
21 17592.70, and shall include, among other things, his or her  
22 observations while visiting the schools and his or her  
23 determinations for each school regarding the status of all of the  
24 circumstances listed in subparagraph (J) and teacher  
25 misassignments and teacher vacancies. As a condition for receipt  
26 of funds, the county superintendent, or his or her designee, shall  
27 use a standardized template to report the circumstances listed in  
28 subparagraph (J) and teacher misassignments and teacher  
29 vacancies, unless the current annual report being used by the county  
30 superintendent, or his or her designee, already includes those details  
31 for each school.

32 (B) Commencing with the 2007–08 fiscal year, to the extent  
33 that funds are appropriated for purposes of this paragraph, the  
34 county superintendent, or his or her designee, annually shall submit  
35 a report, at a regularly scheduled November board meeting, to the  
36 governing board of each school district under his or her jurisdiction,  
37 the county board of education of his or her county, and the board  
38 of supervisors of his or her county describing the state of the  
39 schools in the county or of his or her office that are ranked in  
40 deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section

52056. As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision. For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall include schools determined by the department to meet either of the following:

- (i) The school meets all of the following criteria:
  - (I) Does not have a valid base API score for 2006.
  - (II) Is operating in fiscal year 2007–08 and was operating in fiscal year 2006–07 during the Standardized Testing and Reporting (STAR) Program testing period.
  - (III) Has a valid base API score for 2005 that was ranked in deciles 1 to 3, inclusive, in that year.
- (ii) The school has an estimated base API score for 2006 that would be in deciles 1 to 3, inclusive.
- (C) The department shall estimate an API score for any school meeting the criteria of subclauses (I) and (II) of clause (i) of subparagraph (B) and not meeting the criteria of subclause (III) of clause (i) of subparagraph (B), using available test scores and weighting or corrective factors it deems appropriate. The department shall post the API scores on its Internet Web site on or before May 1.
- (D) For purposes of this section, references to schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall exclude schools operated by county offices of education pursuant to Section 56140, as determined by the department.
- (E) In addition to the requirements above, the county superintendent, or his or her designee, annually shall verify both of the following:
  - (i) That pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two

1 consecutive academic years after completion of grade 12 or until  
2 the pupil has passed both parts of the high school exit examination,  
3 whichever comes first, pursuant to paragraphs (4) and (5) of  
4 subdivision (d) of Section 37254.

5 (ii) That pupils who have elected to receive intensive instruction  
6 and services, pursuant to paragraphs (4) and (5) of subdivision (d)  
7 of Section 37254, are being served.

8 (F) (i) Commencing with the 2010–11 fiscal year and every  
9 third year thereafter, the Superintendent shall identify a list of  
10 schools ranked in deciles 1 to 3, inclusive, of the API for which  
11 the county superintendent, or his or her designee, annually shall  
12 submit a report, at a regularly scheduled November board meeting,  
13 to the governing board of each school district under his or her  
14 jurisdiction, the county board of education of his or her county,  
15 and the board of supervisors of his or her county that describes the  
16 state of the schools in the county or of his or her office that are  
17 ranked in deciles 1 to 3, inclusive, of the base API as defined in  
18 clause (ii).

19 (ii) For the 2010–11 fiscal year, the list of schools ranked in  
20 deciles 1 to 3, inclusive, of the base API shall be updated using  
21 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
22 subparagraph (C), and subparagraph (D), as applied to the 2009  
23 base API and thereafter shall be updated every third year using  
24 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
25 subparagraph (C), and subparagraph (D), as applied to the base  
26 API of the year preceding the third year consistent with clause (i).

27 (iii) As a condition for the receipt of funds, the annual report  
28 shall include the determinations for each school made by the county  
29 superintendent, or his or her designee, regarding the status of all  
30 of the circumstances listed in subparagraph (J) and teacher  
31 misassignments and teacher vacancies, and the county  
32 superintendent, or his or her designee, shall use a standardized  
33 template to report the circumstances listed in subparagraph (J) and  
34 teacher misassignments and teacher vacancies, unless the current  
35 annual report being used by the county superintendent, or his or  
36 her designee, already includes those details with the same level of  
37 specificity that is otherwise required by this subdivision.

38 (G) The county superintendent of the Counties of Alpine,  
39 Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City  
40 and County of San Francisco shall contract with another county

1 office of education or an independent auditor to conduct the  
2 required visits and make all reports required by this paragraph.

3 (H) On a quarterly basis, the county superintendent, or his or  
4 her designee, shall report the results of the visits and reviews  
5 conducted that quarter to the governing board of the school district  
6 at a regularly scheduled meeting held in accordance with public  
7 notification requirements. The results of the visits and reviews  
8 shall include the determinations of the county superintendent, or  
9 his or her designee, for each school regarding the status of all of  
10 the circumstances listed in subparagraph (J) and teacher  
11 misassignments and teacher vacancies. If the county  
12 superintendent, or his or her designee, conducts no visits or reviews  
13 in a quarter, the quarterly report shall report that fact.

14 (I) The visits made pursuant to this paragraph shall be conducted  
15 at least annually and shall meet the following criteria:

16 (i) Minimize disruption to the operation of the school.

17 (ii) Be performed by individuals who meet the requirements of  
18 Section 45125.1.

19 (iii) Consist of not less than 25 percent unannounced visits in  
20 each county. During unannounced visits in each county, the county  
21 superintendent shall not demand access to documents or specific  
22 school personnel. Unannounced visits shall only be used to observe  
23 the condition of school repair and maintenance, and the sufficiency  
24 of instructional materials, as defined by Section 60119.

25 (J) The priority objective of the visits made pursuant to this  
26 paragraph shall be to determine the status of all of the following  
27 circumstances:

28 (i) Sufficient textbooks as defined in Section 60119 and as  
29 specified in subdivision (i).

30 (ii) The condition of a facility that poses an emergency or urgent  
31 threat to the health or safety of pupils or staff as defined in district  
32 policy or paragraph (1) of subdivision (c) of Section 17592.72.

33 (iii) The accuracy of data reported on the school accountability  
34 report card with respect to the availability of sufficient textbooks  
35 and instructional materials, as defined by Section 60119, and the  
36 safety, cleanliness, and adequacy of school facilities, including  
37 good repair as required by Sections 17014, 17032.5, 17070.75,  
38 and 17089.

39 (iv) The extent to which pupils who have not passed the high  
40 school exit examination by the end of grade 12 are informed that

1 they are entitled to receive intensive instruction and services for  
2 up to two consecutive academic years after completion of grade  
3 12 or until the pupil has passed both parts of the high school exit  
4 examination, whichever comes first, pursuant to paragraphs (4)  
5 and (5) of subdivision (d) of Section 37254.

6 (v) The extent to which pupils who have elected to receive  
7 intensive instruction and services, pursuant to paragraphs (4) and  
8 (5) of subdivision (d) of Section 37254, are being served.

9 (vi) *The extent to which the years of prior experience of teachers*  
10 *employed in the schools reflects the average teacher experience*  
11 *range within the school district during the previous school year.*

12 (vii) *For purposes of this section, prior experience shall include*  
13 *time served in assignment as a temporary, probationary, or*  
14 *permanent teacher.*

15 (K) The county superintendent may make the status  
16 determinations described in subparagraph (J) during a single visit  
17 or multiple visits. In determining whether to make a single visit  
18 or multiple visits for this purpose, the county superintendent shall  
19 take into consideration factors such as cost-effectiveness, disruption  
20 to the schoolsite, deadlines, and the availability of qualified  
21 reviewers.

22 (L) If the county superintendent determines that the condition  
23 of a facility poses an emergency or urgent threat to the health or  
24 safety of pupils or staff as defined in district policy or paragraph  
25 (1) of subdivision (c) of Section 17592.72, or is not in good repair,  
26 as specified in subdivision (d) of Section 17002 and required by  
27 Sections 17014, 17032.5, 17070.75, and 17089, the county  
28 superintendent, among other things, may do any of the following:

29 (i) Return to the school to verify repairs.

30 (ii) Prepare a report that specifically identifies and documents  
31 the areas or instances of noncompliance if the district has not  
32 provided evidence of successful repairs within 30 days of the visit  
33 of the county superintendent or, for major projects, has not  
34 provided evidence that the repairs will be conducted in a timely  
35 manner. The report may be provided to the governing board of the  
36 school district. If the report is provided to the school district, it  
37 shall be presented at a regularly scheduled meeting held in  
38 accordance with public notification requirements. The county  
39 superintendent shall post the report on his or her Internet Web site.



1 The report shall be removed from the Internet Web site when the  
2 county superintendent verifies the repairs have been completed.

3 (d) Distribute all laws, reports, circulars, instructions, and blanks  
4 that he or she may receive for the use of the school officers.

5 (e) Annually, on or before August 15, present a report to the  
6 governing board of the school district and the Superintendent  
7 regarding the fiscal solvency of a school district with a disapproved  
8 budget, qualified interim certification, or a negative interim  
9 certification, or that is determined to be in a position of fiscal  
10 uncertainty pursuant to Section 42127.6.

11 (f) Keep in his or her office the reports of the Superintendent.

12 (g) Keep a record of his or her official acts, and of all the  
13 proceedings of the county board of education, including a record  
14 of the standing, in each study, of all applicants for certificates who  
15 have been examined, which shall be open to the inspection of an  
16 applicant or his or her authorized agent.

17 (h) Enforce the course of study.

18 (i) (1) Enforce the use of state textbooks and instructional  
19 materials and of high school textbooks and instructional materials  
20 regularly adopted by the proper authority in accordance with  
21 Section 51050.

22 (2) For purposes of this subdivision, sufficient textbooks or  
23 instructional materials has the same meaning as in subdivision (c)  
24 of Section 60119.

25 (3) (A) Commencing with the 2005–06 school year, if a school  
26 is ranked in any of deciles 1 to 3, inclusive, of the base API, as  
27 specified in paragraph (2) of subdivision (c), and not currently  
28 under review pursuant to a state or federal intervention program,  
29 the county superintendent specifically shall review that school at  
30 least annually as a priority school. A review conducted for purposes  
31 of this paragraph shall be completed by the fourth week of the  
32 school year. For the 2004–05 fiscal year only, the county  
33 superintendent shall make a diligent effort to conduct a visit to  
34 each school pursuant to this paragraph within 120 days of receipt  
35 of funds for this purpose.

36 (B) In order to facilitate the review of instructional materials  
37 before the fourth week of the school year, the county superintendent  
38 in a county with 200 or more schools that are ranked in any of  
39 deciles 1 to 3, inclusive, of the base API, as specified in paragraph  
40 (2) of subdivision (c), may utilize a combination of visits and

1 written surveys of teachers for the purpose of determining  
2 sufficiency of textbooks and instructional materials in accordance  
3 with subparagraph (A) of paragraph (1) of subdivision (a) of  
4 Section 60119 and as defined in subdivision (c) of Section 60119.  
5 If a county superintendent elects to conduct written surveys of  
6 teachers, the county superintendent shall visit the schools surveyed  
7 within the same academic year to verify the accuracy of the  
8 information reported on the surveys. If a county superintendent  
9 surveys teachers at a school in which the county superintendent  
10 has found sufficient textbooks and instructional materials for the  
11 previous two consecutive years and determines that the school  
12 does not have sufficient textbooks or instructional materials, the  
13 county superintendent shall within 10 business days provide a copy  
14 of the insufficiency report to the school district as set forth in  
15 paragraph (4).

16 (C) For purposes of this paragraph, “written surveys” may  
17 include paper and electronic or online surveys.

18 (4) If the county superintendent determines that a school does  
19 not have sufficient textbooks or instructional materials in  
20 accordance with subparagraph (A) of paragraph (1) of subdivision  
21 (a) of Section 60119 and as defined by subdivision (c) of Section  
22 60119, the county superintendent shall do all of the following:

23 (A) Prepare a report that specifically identifies and documents  
24 the areas or instances of noncompliance.

25 (B) Provide within five business days of the review, a copy of  
26 the report to the school district, as provided in subdivision (c), or,  
27 if applicable, provide a copy of the report to the school district  
28 within 10 business days pursuant to subparagraph (B) of paragraph  
29 (3).

30 (C) Provide the school district with the opportunity to remedy  
31 the deficiency. The county superintendent shall ensure remediation  
32 of the deficiency no later than the second month of the school term.

33 (D) If the deficiency is not remedied as required pursuant to  
34 subparagraph (C), the county superintendent shall request the  
35 department to purchase the textbooks or instructional materials  
36 necessary to comply with the sufficiency requirement of this  
37 subdivision. If the department purchases textbooks or instructional  
38 materials for the school district, the department shall issue a public  
39 statement at the first regularly scheduled meeting of the state board  
40 occurring immediately after the department receives the request

1 of the county superintendent and that meets the applicable public  
2 notice requirements, indicating that the district superintendent and  
3 the governing board of the school district failed to provide pupils  
4 with sufficient textbooks or instructional materials as required by  
5 this subdivision. Before purchasing the textbooks or instructional  
6 materials, the department shall consult with the district to determine  
7 which textbooks or instructional materials to purchase. All  
8 purchases of textbooks or instructional materials shall comply with  
9 Chapter 3.25 (commencing with Section 60420) of Part 33. The  
10 amount of funds necessary for the purchase of the textbooks and  
11 materials is a loan to the school district receiving the textbooks or  
12 instructional materials. Unless the school district repays the amount  
13 owed based upon an agreed-upon repayment schedule with the  
14 Superintendent, the Superintendent shall notify the Controller and  
15 the Controller shall deduct an amount equal to the total amount  
16 used to purchase the textbooks and materials from the next  
17 principal apportionment of the district or from another  
18 apportionment of state funds.

19 (j) Preserve carefully all reports of school officers and teachers.

20 (k) Deliver to his or her successor, at the close of his or her  
21 official term, all records, books, documents, and papers belonging  
22 to the office, taking a receipt for them, which shall be filed with  
23 the department.

24 (l) (1) Submit two reports during the fiscal year to the county  
25 board of education in accordance with the following:

26 (A) The first report shall cover the financial and budgetary status  
27 of the county office of education for the period ending October  
28 31. The second report shall cover the period ending January 31.  
29 Both reports shall be reviewed by the county board of education  
30 and approved by the county superintendent no later than 45 days  
31 after the close of the period being reported.

32 (B) As part of each report, the county superintendent shall certify  
33 in writing whether or not the county office of education is able to  
34 meet its financial obligations for the remainder of the fiscal year  
35 and, based on current forecasts, for two subsequent fiscal years.  
36 The certifications shall be classified as positive, qualified, or  
37 negative, pursuant to standards prescribed by the Superintendent,  
38 for the purposes of determining subsequent state agency actions  
39 pursuant to Section 1240.1. For purposes of this subdivision, a  
40 negative certification shall be assigned to a county office of

1 education that, based upon current projections, will not meet its  
2 financial obligations for the remainder of the fiscal year or for the  
3 subsequent fiscal year. A qualified certification shall be assigned  
4 to a county office of education that may not meet its financial  
5 obligations for the current fiscal year or two subsequent fiscal  
6 years. A positive certification shall be assigned to a county office  
7 of education that will meet its financial obligations for the current  
8 fiscal year and subsequent two fiscal years. In accordance with  
9 those standards, the Superintendent may reclassify a certification.  
10 If a county office of education receives a negative certification,  
11 the Superintendent, or his or her designee, may exercise the  
12 authority set forth in subdivision (c) of Section 1630. Copies of  
13 each certification, and of the report containing that certification,  
14 shall be sent to the Superintendent at the time the certification is  
15 submitted to the county board of education. Copies of each  
16 qualified or negative certification and the report containing that  
17 certification shall be sent to the Controller at the time the  
18 certification is submitted to the county board of education.

19 (2) All reports and certifications required under this subdivision  
20 shall be in a format or on forms prescribed by the Superintendent,  
21 and shall be based on standards and criteria for fiscal stability  
22 adopted by the state board pursuant to Section 33127. The reports  
23 and supporting data shall be made available by the county  
24 superintendent to an interested party upon request.

25 (3) This subdivision does not preclude the submission of  
26 additional budgetary or financial reports by the county  
27 superintendent to the county board of education or to the  
28 Superintendent.

29 (4) The county superintendent is not responsible for the fiscal  
30 oversight of the community colleges in the county, however, he  
31 or she may perform financial services on behalf of those  
32 community colleges.

33 (m) If requested, act as agent for the purchase of supplies for  
34 the city and high school districts of his or her county.

35 (n) For purposes of Section 44421.5, report to the Commission  
36 on Teacher Credentialing the identity of a certificated person who  
37 knowingly and willingly reports false fiscal expenditure data  
38 relative to the conduct of an educational program. This requirement  
39 applies only if, in the course of his or her normal duties, the county  
40 superintendent discovers information that gives him or her

1 reasonable cause to believe that false fiscal expenditure data  
2 relative to the conduct of an educational program has been reported.

3 *SEC. 3. Section 35035 of the Education Code is amended to*  
4 *read:*

5 35035. The superintendent of each school district shall, in  
6 addition to other powers and duties granted to or imposed upon  
7 him or her:

8 (a) Be the chief executive officer of the governing board of the  
9 district.

10 (b) Except in a district where the governing board has appointed  
11 or designated an employee other than the superintendent, or a  
12 deputy, or assistant superintendent, to prepare and submit a budget,  
13 prepare and submit to the governing board of the district, at the  
14 time it may direct, the budget of the district for the next ensuing  
15 school year, and revise and take other action in connection with  
16 the budget as the board may desire.

17 (c) (1) Subject to the approval of the governing board, assign  
18 all employees of the district employed in positions requiring  
19 certification qualifications, to the positions in which they are to  
20 serve. This power to assign includes the power to transfer a teacher  
21 from one school to another school at which the teacher is  
22 certificated to serve within the district when the superintendent  
23 concludes that the transfer is in the best interest of the district.

24 (2) *When making initial teacher assignments pursuant to*  
25 *paragraph (1), the superintendent shall assign teachers on a basis*  
26 *that allows each school in the district to reflect the average teacher*  
27 *experience, which shall include time served as a temporary,*  
28 *probationary, or permanent teacher.*

29 (3) *It is the intent of the Legislature to identify federal funds to*  
30 *support teachers in schools ranked in deciles 1 to 3, inclusive, of*  
31 *the Academic Performance Index. It is the intent of the Legislature*  
32 *that these funds support programs designed to enhance*  
33 *professional development and retention, including, but not limited*  
34 *to, the Beginning Teacher Support and Assessment Program, Peer*  
35 *Assistance and Review, mentoring, coaching in the use of data to*  
36 *improve instruction, and common planning time for teams of*  
37 *teachers.*

38 (d) Upon adoption, by the district board, of a district policy  
39 concerning transfers of teachers from one school to another school

1 within the district, have authority to transfer teachers consistent  
2 with that policy.

3 (e) Determine that each employee of the district in a position  
4 requiring certification qualifications has a valid certificated  
5 document registered as required by law authorizing him or her to  
6 serve in the position to which he or she is assigned.

7 (f) Enter into contracts for and on behalf of the district pursuant  
8 to Section 17604.

9 (g) Submit financial and budgetary reports to the governing  
10 board as required by Section 42130.

11 *SEC. 4. Section 42605 of the Education Code is amended to*  
12 *read:*

13 42605. (a) (1) Unless otherwise prohibited under federal law  
14 or otherwise specified in subdivision (e), for the 2008–09 fiscal  
15 year to the 2012–13 fiscal year, inclusive, recipients of funds from  
16 the items listed in paragraph (2) may use funding received, pursuant  
17 to subdivision (b), from any of these items listed in paragraph (2)  
18 that are contained in an annual Budget Act, for any educational  
19 purpose:

20 (2) 6110-104-0001, 6110-105-0001, 6110-108-0001,  
21 6110-122-0001, 6110-123-0001, 6110-124-0001, 6110-137-0001,  
22 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001,  
23 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001,  
24 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001,  
25 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-227-0001,  
26 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001,  
27 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001,  
28 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001,  
29 ~~6110-266-0001~~, 6110-267-0001, 6110-268-0001, and  
30 6360-101-0001.

31 (b) (1) For the 2009–10 fiscal year to the 2012–13 fiscal year,  
32 inclusive, the Superintendent or other administering state agency,  
33 as appropriate, shall apportion from the amounts provided in the  
34 annual Budget Act for the items enumerated in paragraph (2) of  
35 subdivision (a), an amount to recipients based on the same relative  
36 proportion that the recipient received in the 2008–09 fiscal year  
37 for the programs funded through the items enumerated in paragraph  
38 (2) of subdivision (a).

39 (2) This section and Section 42 of Chapter 12 of the Statutes of  
40 2009 do not authorize a school district that receives funding on

1 behalf of a charter school pursuant to Sections 47634.1 and 47651  
2 to redirect this funding for another purpose unless otherwise  
3 authorized in law or pursuant to an agreement between a charter  
4 school and its chartering authority. Notwithstanding paragraph  
5 (1), for the 2008–09 fiscal year to the 2012–13 fiscal year,  
6 inclusive, a school district that receives funding on behalf of a  
7 charter school pursuant to Sections 47634.1 and 47651 shall  
8 continue to distribute the funds to those charter schools based on  
9 the relative proportion that the school district distributed in the  
10 2007–08 fiscal year, and shall adjust those amounts to reflect  
11 changes in charter school attendance in the district. The amounts  
12 allocated shall be adjusted for any greater or lesser amount  
13 appropriated for the items enumerated in paragraph (2) of  
14 subdivision (a). For a charter school that began operation in the  
15 2008–09 fiscal year, if a school district received funding on behalf  
16 of that charter school pursuant to Sections 47634.1 and 47651, the  
17 school district shall continue to distribute the funds to that charter  
18 school based on the relative proportion that the school district  
19 distributed in the 2008–09 fiscal year and shall adjust the amount  
20 of those funds to reflect changes in charter school attendance in  
21 the district. The amounts allocated shall be adjusted for any greater  
22 or lesser amount appropriated for the items enumerated in  
23 paragraph (2) of subdivision (a).

24 (3) Notwithstanding paragraph (1), for the 2008–09 fiscal year  
25 to the 2012–13 fiscal year, inclusive, the Superintendent shall  
26 apportion from the amounts appropriated by Item 6110-211-0001  
27 of the annual Budget Act, an amount to a charter school in  
28 accordance with the per pupil methodology prescribed in  
29 subdivision (c) of Section 47634.1.

30 (4) Notwithstanding paragraph (1), for the 2008–09 fiscal year  
31 to the 2012–13 fiscal year, inclusive, the Superintendent shall  
32 apportion from the amounts provided in the annual Budget Act,  
33 an amount to a school district, charter school, and county office  
34 of education based on the same relative proportion that the local  
35 educational agency received in the 2007–08 fiscal year for the  
36 programs funded through the following items contained in the  
37 annual Budget Act: 6110-104-0001, 6110-105-0001,  
38 6110-156-0001, 6110-190-0001, schedule (3) of 6110-193-0001,  
39 6110-198-0001, 6110-232-0001, and schedule (2) of  
40 6110-240-0001.

(5) For purposes of paragraph (4) of this subdivision, if a direct-funded charter school began operation in the 2008–09 fiscal year, the amount that the charter school was entitled to receive from the items enumerated in paragraph (4) for the 2008–09 fiscal year, as certified by the Superintendent in March 2009, is deemed to have been received in the 2007–08 fiscal year.

(c) (1) This section does not obligate the state to refund or repay reductions made pursuant to this section. A decision by a school district to reduce funding pursuant to this section for a state-mandated local program shall constitute a waiver of the subvention of funds that the school district is otherwise entitled to pursuant to Section 6 of Article XIII B of the California Constitution on the amount so reduced.

(2) As a condition of receipt of funds, the governing board of the school district or board of the county office of education, as appropriate, at a regularly scheduled open public hearing shall take testimony from the public, discuss, approve or disapprove the proposed use of funding, and make explicit for each of the budget items in paragraph (2) of subdivision (a) the purposes for which the funds will be used.

(3) Using the Standardized Account Code Structure reporting process, a local educational agency shall report expenditures of funds pursuant to the authority of this section by using the appropriate function codes to indicate the activities for which these funds are expended. The department shall collect and provide this information to the Department of Finance and the appropriate policy and budget committees of the Legislature by April 15, 2010, and annually thereafter on April 15 until, and including, April 15, 2014.

(d) For the 2008–09 fiscal year to the 2012–13 fiscal year, inclusive, local education agencies that use the flexibility provision of the section shall be deemed to be in compliance with the program and funding requirements contained in statutory, regulatory, and provisional language, associated with the items enumerated in subdivision (a).

(e) Notwithstanding subdivision (d), the following requirements shall continue to apply:

(1) For Items 6110-105-0001 and 6110-156-0001, the amount authorized for flexibility shall exclude the funding provided for



instruction of CalWORKs eligible students pursuant to schedules (2) and (3), and provisions 2 and 4.

(2) (A) Any instructional materials purchased by a local education agency shall be the materials adopted by the state board for kindergarten and grades 1 to 8, inclusive, and for grades 9 to 12, inclusive, the materials purchased shall be aligned with state standards as defined by Section 60605, and shall also meet the reporting and sufficiency requirements contained in Section 60119.

(B) For purposes of this section, “sufficiency” means that each pupil has sufficient textbooks and instructional materials in the four core areas as defined by Section 60119, and that all pupils within the local education agency who are enrolled in the same course shall have identical textbooks and instructional materials, as specified in Section 1240.3.

(3) For Item 6110-195-0001, the item shall exclude moneys that are required to fund awards for teachers that have previously met the requirements necessary to obtain these awards, until the award is paid in full.

~~(4) For Item 6110-266-0001, a county office of education shall conduct at least one site visit to each of the required schoolsites pursuant to Section 1240 and shall fulfill all of the duties set forth in Sections 1240 and 44258.9.~~

~~(5)~~  
(4) For Item 6110-198-0001, a school district or county office of education that operates the child care component of the Cal-SAFE program shall comply with paragraphs (5) and (6) of subdivision (c) of Section 54746.

(f) This section does not invalidate any state law pertaining to teacher credentialing requirements or the functions that require credentials.

*SEC. 5. Section 44955 of the Education Code is amended to read:*

44955. (a) ~~No~~A permanent employee shall *not* be deprived of his or her position for causes other than those specified in Sections 44907 and 44923, and Sections 44932 to 44947, inclusive, and ~~no~~ a probationary employee shall *not* be deprived of his or her position for cause other than as specified in Sections 44948 to 44949, inclusive.

(b) Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which

1 school is in session shall have declined below the corresponding  
2 period of either of the previous two school years, whenever the  
3 governing board determines that attendance in a district will decline  
4 in the following year as a result of the termination of an interdistrict  
5 tuition agreement as defined in Section 46304, whenever a  
6 particular kind of service is to be reduced or discontinued not later  
7 than the beginning of the following school year, or whenever the  
8 amendment of state law requires the modification of curriculum,  
9 and ~~when~~ *if* in the opinion of the governing board of the district it  
10 shall have become necessary by reason of any of these conditions  
11 to decrease the number of permanent employees in the district, the  
12 governing board may terminate the services of not more than a  
13 corresponding percentage of the certificated employees of the  
14 district, permanent as well as probationary, at the close of the  
15 school year. Except as otherwise provided by statute, the services  
16 of ~~no a permanent employee may~~ *shall not* be terminated under  
17 the provisions of this section while any probationary employee,  
18 or any other employee with less seniority, is retained to render a  
19 service ~~which said that the~~ permanent employee is certificated and  
20 competent to render.

21 In computing a decline in average daily attendance for purposes  
22 of this section for a newly formed or reorganized school district,  
23 each school of the district shall be deemed to have been a school  
24 of the newly formed or reorganized district for both of the two  
25 previous school years.

26 As between employees who first rendered paid service to the  
27 district on the same date, the governing board shall determine the  
28 order of termination solely on the basis of needs of the district and  
29 ~~the students thereof~~ *pupils of the district*. Upon the request of any  
30 employee whose order of termination is so determined, the  
31 governing board shall furnish in writing no later than five days  
32 prior to the commencement of the hearing held in accordance with  
33 Section 44949, a statement of the specific criteria used in  
34 determining the order of termination and the application of the  
35 criteria in ranking each employee relative to the other employees  
36 in the group. This requirement that the governing board provide,  
37 on request, a written statement of reasons for determining the order  
38 of termination shall not be interpreted to give affected employees  
39 any legal right or interest that would not exist without such a  
40 requirement.

(c) Notice of ~~such~~ *the* termination of services shall be given before the 15th of May in the manner prescribed in Section 44949, and services of ~~such~~ *these* employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.

The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service ~~which~~ *that* their seniority and qualifications entitle them to render. However, prior to assigning or reassigning any certificated employee to teach a subject ~~which~~ *that* he or she has not previously taught, and for which he or she does not have a teaching credential or ~~which~~ *that* is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(d) (1) *Notwithstanding subdivision (b), for purposes of maintaining stability of classroom teachers at schools in deciles 1 to 3, inclusive, of the Academic Performance Index, the proportion of classroom teachers terminated at those schools in any given year as part of a reduction in the number of employees pursuant to this section shall be no greater than the proportion of classroom teachers terminated in the school district as a whole. This limit shall also apply to classroom teacher reductions at schools on the list of the persistently lowest-achieving schools approved by the state board, provided those schools have put in place classroom teachers as part of a school reform plan approved by the governing board.*

(2) *The Superintendent shall institute fiscal penalties for noncompliance with paragraph (1), which may include, but not be limited to, withholding a percentage of the school district's apportionment.*

(3) *In addition to the requirements prescribed in paragraph (1), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:*

(+)

(A) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.

~~(2)~~

(B) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws as it applies to pupils and to certificated employees.

SEC. 6. Section 44956 of the Education Code is amended to read:

44956. (a) Any permanent employee whose services have been terminated as provided in Section 44955 shall have the following rights:

(1) For the period of 39 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment, in the order of original employment as determined by the board in accordance with the provisions of Sections 44831 to 44855, inclusive, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service; provided, that no probationary or other employee with less seniority shall be employed to render a service which said employee is certificated and competent to render. However, prior to reappointing any employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(2) The aforesaid right to reappointment may be waived by the employee, without prejudice, for not more than one school year, unless the board extends this right, but such waiver shall not deprive the employee of his right to subsequent offers of reappointment.

1 (3) Notwithstanding paragraph (1), a school district may deviate  
2 from reappointing a certificated employee in order of seniority for  
3 ~~either~~ any of the following reasons:

4 (A) The district demonstrates a specific need for personnel to  
5 teach a specific course or course of study, or to provide services  
6 authorized by a services credential with a specialization in either  
7 pupil personnel services or health for a school nurse, and that the  
8 employee has special training and experience necessary to teach  
9 that course or course of study, or to provide those services, which  
10 others with more seniority do not possess.

11 (B) For purposes of maintaining or achieving compliance with  
12 constitutional requirements related to equal protection of the laws,  
13 *as it applies to pupils and to certificated employees.*

14 (C) *For purposes of furthering improvements in pupil*  
15 *achievement at schools in deciles 1 to 3, inclusive, of the Academic*  
16 *Performance Index that have put in place teaching staff as part of*  
17 *a school reform plan approved by the governing board of the*  
18 *school district. Governing boards may reappoint teaching staff,*  
19 *regardless of seniority, at the schools described in this*  
20 *subparagraph in a manner that supports the school reform plan.*  
21 *Governing boards may also use this authority to reappoint teaching*  
22 *staff at schools on the list of the persistently lowest-achieving*  
23 *schools approved by the state board.*

24 (4) As to any such employee who is reappointed, the period of  
25 his *or her* absence shall be treated as a leave of absence and shall  
26 not be considered as a break in the continuity of his *or her* service,  
27 he *or she* shall retain the classification and order of employment  
28 he *or she* had when his *or her* services were terminated, and credit  
29 for prior service under any state or district retirement system shall  
30 not be affected by such termination, but the period of his *or her*  
31 absence shall not count as a part of the service required for  
32 retirement.

33 (5) During the period of his *or her* preferred right to  
34 reappointment, any such employee shall, in the order of original  
35 employment, be offered prior opportunity for substitute service  
36 during the absence of any other employee who has been granted  
37 a leave of absence or who is temporarily absent from duty;  
38 provided, that his *or her* services may be terminated upon the  
39 return to duty of said other employee and that said substitute  
40 service shall not affect the retention of his *or her* previous

1 classification and rights. If, in any school year the employee serves  
2 as a substitute in any position requiring certification for any 21  
3 days or more within a period of 60 schooldays, the compensation  
4 the employee receives for substitute service in that 60-day period,  
5 including his or her first 20 days of substitute service, shall be not  
6 less than the amount the employee would receive if he or she were  
7 being reappointed.

8 (6) During the period of the employee's preferred right to  
9 reappointment, the governing board of the district, if it is also the  
10 governing board of one or more other districts, may assign him *or*  
11 *her* to service, which he *or she* is certificated and competent to  
12 render, in said other district or districts; provided, that the  
13 compensation he *or she* receives therefor may in the discretion of  
14 the governing board be the same as he *or she* would have received  
15 had he *or she* been serving in the district from which his *or her*  
16 services were terminated, that his *or her* service in the said other  
17 district or districts shall be counted toward the period required for  
18 both state and local retirement, as defined by Section 22102, as  
19 though rendered in the district from which his *or her* services were  
20 terminated, and that no permanent employee in said other district  
21 or districts shall be displaced by him *or her*.

22 It is the intent of this ~~subsection~~ *subdivision* that the employees  
23 of a school district, the governing board of which is also the  
24 governing board of one or more other school districts, shall not be  
25 at a disadvantage as compared with employees of a unified school  
26 district.

27 (7) At any time prior to the completion of one year after his *or*  
28 *her* return to service, he *or she* may continue or make up, with  
29 interest, his *or her* own contributions to any state or district  
30 retirement system, for the period of his *or her* absence, but it shall  
31 not be obligatory on state or district to match such contributions.

32 (8) Should he *or she* become disabled or reach retirement age  
33 at any time before his *or her* return to service, he *or she* shall  
34 receive, in any state or district retirement system of which he *or*  
35 *she* was a member, all benefits to which he *or she* would have been  
36 entitled had such event occurred at the time of his *or her*  
37 termination of service, plus any benefits he *or she* may have  
38 qualified for thereafter, as though still employed.

39 *SEC. 7. If the Commission on State Mandates determines that*  
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*  
2 *pursuant to Part 7 (commencing with Section 17500) of Division*  
3 *4 of Title 2 of the Government Code.*

4 ~~SECTION 1. Section 52.5 of the Civil Code is amended to~~  
5 ~~read:~~

6 ~~52.5. (a) A victim of human trafficking, as defined in Section~~  
7 ~~236.1 of the Penal Code, may bring a civil action for actual~~  
8 ~~damages, compensatory damages, punitive damages, injunctive~~  
9 ~~relief, any combination of those, or any other appropriate relief.~~  
10 ~~A prevailing plaintiff may also be awarded attorney's fees and~~  
11 ~~costs.~~

12 ~~(b) In addition to the remedies specified herein, in any action~~  
13 ~~under subdivision (a), the plaintiff may be awarded up to three~~  
14 ~~times his or her actual damages or ten thousand dollars (\$10,000);~~  
15 ~~whichever is greater. In addition, punitive damages may also be~~  
16 ~~awarded upon clear and convincing evidence of the defendant's~~  
17 ~~malice, oppression, fraud, or duress in committing the act of human~~  
18 ~~trafficking.~~

19 ~~(c) An action brought pursuant to this section shall be~~  
20 ~~commenced within five years of the date on which the trafficking~~  
21 ~~victim was freed from the trafficking situation, or if the victim was~~  
22 ~~a minor when the act of human trafficking against the victim~~  
23 ~~occurred, within eight years after the date the plaintiff attains the~~  
24 ~~age of majority.~~

25 ~~(d) If a person entitled to sue is under a disability at the time~~  
26 ~~the cause of action accrues, so that it is impossible or impracticable~~  
27 ~~for him or her to bring an action, then the time of the disability is~~  
28 ~~not part of the time limited for the commencement of the action.~~  
29 ~~Disability will toll the running of the statute of limitation for this~~  
30 ~~action.~~

31 ~~(1) Disability includes being a minor, insanity, imprisonment,~~  
32 ~~or other incapacity or incompetence.~~

33 ~~(2) The statute of limitations shall not run against an incompetent~~  
34 ~~or minor plaintiff simply because a guardian ad litem has been~~  
35 ~~appointed. A guardian ad litem's failure to bring a plaintiff's action~~  
36 ~~within the applicable limitation period will not prejudice the~~  
37 ~~plaintiff's right to do so after his or her disability ceases.~~

38 ~~(3) A defendant is estopped to assert a defense of the statute of~~  
39 ~~limitations when the expiration of the statute is due to conduct by~~  
40 ~~the defendant inducing the plaintiff to delay the filing of the action;~~

1 or due to threats made by the defendant causing duress upon the  
2 plaintiff.

3 (4) ~~The suspension of the statute of limitations due to disability,~~  
4 ~~lack of knowledge, or estoppel applies to all other related claims~~  
5 ~~arising out of the trafficking situation.~~

6 (5) ~~The running of the statute of limitations is postponed during~~  
7 ~~the pendency of any criminal proceedings against the victim.~~

8 (e) ~~The running of the statute of limitations may be suspended~~  
9 ~~where a person entitled to sue could not have reasonably discovered~~  
10 ~~the cause of action due to circumstances resulting from the~~  
11 ~~trafficking situation, such as psychological trauma, cultural and~~  
12 ~~linguistic isolation, and the inability to access services.~~

13 (f) ~~A prevailing plaintiff may also be awarded reasonable~~  
14 ~~attorney's fees and litigation costs including, but not limited to,~~  
15 ~~expert witness fees and expenses as part of the costs.~~

16 (g) ~~Any restitution paid by the defendant to the victim shall be~~  
17 ~~credited against any judgment, award, or settlement obtained~~  
18 ~~pursuant to this section. Any judgment, award, or settlement~~  
19 ~~obtained pursuant to an action under this section shall be subject~~  
20 ~~to the provisions of Section 13963 of the Government Code.~~

21 (h) ~~Any civil action filed under this section shall be stayed~~  
22 ~~during the pendency of any criminal action arising out of the same~~  
23 ~~occurrence in which the claimant is the victim. As used in this~~  
24 ~~section, a "criminal action" includes investigation and prosecution,~~  
25 ~~and is pending until a final adjudication in the trial court, or~~  
26 ~~dismissal.~~